

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

115-9-14412

IN THE MATTER OF:

ANGEL V. MENDEZ VIERA
JANNETTE VAZQUEZ COLL

DEBTOR(S)

CASE NO **11-05154 SEK**

CHAPTER 13

MOTION OBJECTING PLAN

TO THE HONORABLE COURT:

COMES NOW creditor **BANCO BILBAO VIZCAYA ARGENTARIA (BBVA)**, represented by the undersigned attorneys and very respectfully states and prays:

1. On June 17th, 2011, debtors filed the instant petition for relief.
2. On June 17th, 2011 debtors filed a plan by means of which they propose to pay to the Trustee the sum of \$300.00 for sixty (60) consecutive months for a total base of \$18,000.00. From said proceeds the Trustee shall disburse \$2,714.00 for attorney's fees. The plan further states that they consent the lifting of the automatic stay in favor of BBVA.
3. BBVA is holder in due course of a duly recorded money purchase security agreement with security interest (contract number 9615221177) at the Motor Vehicles and Trailers Registry of the Department of Transportation and Public Works of the Commonwealth of Puerto Rico, which encumbers a 2005, Toyota Yaris Sedan

automobile, engine number JTDBT923894042675 registered in the name of **JANNETTE VAZQUEZ COLL.** (See Exhibit "A")

4. Appearing creditor respectfully requests from this Honorable Court to enter an Order denying confirmation of the proposed plan based on the following grounds:

a. Despite what is described in the plan, part "B" of the proposed plan attached by the Trustee fails to provide that BBVA will retain its security interest over the vehicle at hand.

b. Section 1325(a)(1) and (5) of the Bankruptcy Code, [11 USC §1325(a)(1) and (5)], states as follows:

"§1325. Confirmation of plan

"(5)with respect to each allowed secured claim provided for by the plan-

(A) the holder of such claim has accepted the plan;

(B) (i) the plan provides that-

(I) the holder of such claim retain the lien securing such claim until the earlier of-

(aa)the payment of the underlying debt determined under nonbankruptcy law; or

(bb)discharge under section 1328; and

(II)if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law;

(ii) the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less

than the allowed amount of such claim; and
(iii)if-
(I)property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and
(II)the holder of the claim is secured by personal property, the amount of such payments shall not be less than the amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or
(C) the debtor surrenders the property securing such claim to such holder;"

c. Section 363(e) of the Bankruptcy Code states as follows:

"(e) Notwithstanding any other provision of this section, at any time, on request of an entity that has an interest in property used, sold, or leased, or proposed to be used, sold, or leased, by the trustee, the court, with or without a hearing, shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest.

d. The proposed plan attached by the Trustee fails to comply with Sections 1325(a)(1) and (5), supra. It fails to provide that BBVA shall retain its lien. Under such circumstances BBVA hereby rejects the proposed plan.

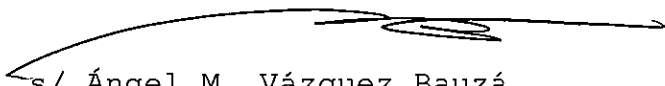
WHEREFORE, it is very respectfully requested from this Honorable Court to grant this Motion and to enter an Order denying confirmation of the proposed plan.

I HEREBY CERTIFY: On this same date I electronically filed the foregoing document with the clerk of the Court using the CM/ECF

System which will sent notification of such filing to the following: Attorney for Debtor(s), **JOSE M. PRIETO CARBALLO, ESQ.**, and to Chapter 13 Trustee, **JOSE RAMON CARRION MORALES, ESQ.**, and by ordinary mail to debtor(s) and to all creditors and parties in interest appearing in the attached Master Address List.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 26 day of July, 2011.



s/ Ángel M. Vázquez Bauzá
ÁNGEL M. VÁZQUEZ BAUZÁ, ESQ.
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ENR & Associates
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VTRATO (continuación)

cesionarios, cuando fuese requerido para ello, la totalidad del balance pendiente de pago

CERTIFICADO DE TITULO

05-11-2009	17-17-19	0398-1128-5542-000000000	
NUMERO DE TITULO A	FECHA EXPEDICION	NUMERO DE REGISTRO	FECHA REGISTRO
4217140	25-11-2009	7163949	01-04-2009
NUMERO DE SERIE (VIN)	MARCA	MODELO	AÑO
JTDBT923894042675	toyota	2009	04
CAP CARGA	PESO	NUOVO USADO	TITULO ANTERIOR
04	04	NUOVO	04-10-19
ESTADO	ODOMETRO	COLOR	
10	613486		

NOMBRE Y DIRECCION DEL DUENO REGISTRAL

Nombre: VAZQUEZ DOLL, JANNETTE

ESTE ES SU
TITULO DE PROPIEDAD.
CONSERVELO EN
SITO SEGURO

Resid: BO BUEN CONSEJO
214 CALLE SAN RAFAEL
SAN JUAN, PR 00926

Postal: BO BUEN CONSEJO
GRAVAMENES 214 CALLE SAN RAFAEL
SAN JUAN, PR 00926
PRIMER GRAVAMEN (VENTA CONDOMINIO)

FECHA
DIAGNOSIS

BBVA

01oct2008

SEGUNDO GRAVAMEN (OTROS)

CANCELACION GRAVAMEN

EL (LOS) ABAJO FIRMANTE (S) TENEDOR (ES) DEL GRAVAMEN SOBRE EL VEHICULO DE MOTOR DESCRITO ARRIBA, CERTIFICAMOS QUE EL MISMO HA SIDO PAGADO (SI MAS DE UN GRAVAMEN DEBERAN APARECER DOS (2) FIRMAS)

PRIMER GRAVAMEN

FECHA

FIRMA AUTORIZADA

SEGUNDO GRAVAMEN

FECHA

FIRMA AUTORIZADA

R. L. G. T. W.

NUMERO CONTROL

SECRETARIO OTOP
O REPRESENTANTE AUTORIZADO

A- 8587282

NO ES VALIDO SI ALTERADO

Label Matrix for local noticing
0104-3
Case 11-05154-SEK13
District of Puerto Rico
Old San Juan
Tue Jul 26 09:16:37 AST 2011

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US Bankruptcy Court District of P.R.

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